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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,798	10/06/2000	Alain Benayoun	FR9-1999-0035 US1	2906
42640	7590	02/08/2005	EXAMINER	
DILLON & YUDELL LLP 8911 NORTH CAPITAL OF TEXAS HWY SUITE 2110 AUSTIN, TX 78759			BURGESS, BARBARA N	
			ART UNIT	PAPER NUMBER
			2157	

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/680,798	BENAYOUN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Barbara N Burgess	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 21 October 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1 and 7-27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1, 7-27 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

This Office Action is in response to amendment filed October 21, 2004. Claims 1, 7-27 are presented for further examination.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 7-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Lai et al. (hereinafter “Lai”, US 2001/0052057 A1).

As per claims 1, 15, 22, Lai discloses a communication device for transferring data between two devices coupled to a network, said communication device comprising:

- A dual-port memory for storing data (paragraphs [0026], [0028]);
- A high-speed interface for transmitting, said data between a first device and said dual port memory, wherein said high-speed interface communicates data at an initial rate (paragraphs [0026]-[0028], [0030]-[0031], [0033]);
- A plurality of low-speed interfaces, each connected to a respective one of a plurality of links to said second device, for transmitting data from said dual-port

memory to said respective one of said plurality of links at one of a plurality of data rates, wherein at least two of said plurality of data rates are unequal and are fractions of said initial rate, all said fractions being capable of reduction to a common denominator and at least one of said fractions being irreducible (paragraphs [0030], [0034]-[0035], [0037], [0041]);

- Controller for controlling said memory and said interfaces and for monitoring a data rate of said data between said memory and said plurality of links, wherein said controller includes means for cyclically distributing data to be communicated from said memory to said second device among said low-speed interfaces, such that each of said plurality of low speed interfaces receives a number of consecutive units of said data equal to the numerator of its associated fraction (paragraphs [0012], [0027], [0030], [0040]).

As per claims 7, 16, 23, Lai discloses the communication device of Claim 1, wherein, at least one of the set of said high-speed interface and said plurality of low speed interfaces comprises means for establishing a connection with a modem (paragraphs [0030], [0033]-[0034]).

As per claims 10, 17, 24, Lai discloses the communication device of Claim 1 wherein said hi-speed interface further comprises means for receiving said data at an said initial rate, wherein said initial rate is equal to a sum of said plurality of data rates (paragraphs [0030]-[0031], [0034], [0036]-[0037]).

As per claims 11, 18, 25, Lai discloses the communication device of Claim 10, wherein at least two of said data rates are equal (paragraphs [0037]-[0038]).

As per claims 12, 19, 26, Lai discloses the communication device of Claim 1, wherein said initial rate equals a sum of said plurality of data rates (paragraphs [0030]-[0031], [0034], [0036]-[0037]).

As per claims 13, 20, 27, Lai discloses the communication device of Claim 1 said controller further comprises means for reporting said data rates (paragraphs [0012], [0027], [0030], [0040]).

As per claims 14, 21, Lai discloses the communication device of Claim 1, wherein said high speed interface further comprises means for transmitting said data at said initial rate wherein said initial rate is equal to a sum of said plurality of data rates and at least two of said data rates are unequal (paragraphs [0037]-[0038]).

### ***Response to Arguments***

**The Office notes the following arguments:**

(a) While Lai does claim priority to both provisional application No. 60/211,095, filed on June 12, 2000 and Taiwan Patent Application 89116720, filed August 18, 2000, Applicant's claim of priority to European Patent Application 00480012.4, filed December

1, 1999, predates both of the priority claims of Lai and disqualifies Lai as a reference against Applicants' present application.

3. Applicant's argument filed has been fully considered but is not persuasive.

**In response to:**

(a) Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(a)-(d) based upon an application filed in Europe on December 1, 1999. A claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since the United States application was filed more than twelve months thereafter.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara N Burgess whose telephone number is (571) 272-3996. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Barbara N Burgess  
Examiner  
Art Unit 2157

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SALEH NAJJAR  
PRIMARY EXAMINER